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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,075	07/24/2003	Takao Yamaguchi	MDA-2880US3	9771

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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/626,075

Applicant(s)

YAMAGUCHI ET AL.

Examiner

Victor R. Kostak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,59-62 and 95 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 23,59-62 and 95 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/194,008.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>see action</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Note MPEP 606.01.

2. Applicant is informed that claims 23 and 95 (claim 95 newly drafted as a method claim corresponding to apparatus claim 23), claims 59 and 60, and claim pair 61 and 62 were originally restricted in parent application 09/194,008, grouped as inventions IV, IX and X, respectively. The examiner has decided to examine all three groups (though not dismissing the propriety of the restriction) in an effort to expedite prosecution, additionally since only three claims are essentially presented for examination.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 59-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "frequently" in claims 59 and 60 is a relative term which renders the claim indefinite. The term "frequently" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

What one of ordinary skill in the art considers data loss as being a "frequent" occurrence differs from the next skilled artisan.

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Similarly regarding the term “preferentially” (recited in claims 61 and 62), what one skilled artisan prefers can readily differ from the preferences of any other skilled artisan.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23, 59-62 and 95 are rejected under 35 U.S.C. 102(e) as being anticipated by Shinoda.

Shinoda transmits dynamic video imagery (e.g. col. 1 lines 7-8) in time-sequential MPEG format (e.g. col. 3 lines 17-19) which includes priority data (the I- or P- frames: col. 3 lines 22-32; col. 4 lines 4 lines 5-14). When the transfer rate exceeds the desired or usable transfer rate, the encoder thins out some of the data, more specifically, the lesser valuable B-frames (e.g. col. 4 lines 41-55), thereby meeting claims 23 and 95.

As for claims 59 and 60, when some of the MPEG data is damaged (i.e. erroneous), a retransmission request is prompted (e.g. Fig. 1). Furthermore, when the data is lost to an extended period of time, the high priority data is requested to be retransmitted (e.g. col. 3 lines 17-32).

As for claims 61 and 62, the high priority data is the most valuable data and therefore considered preferred above the other data as a practical matter, particularly when the transmission rate or bandwidth can be limited (noting again col. 4 lines 41-55).

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is informed that the additionally cited references are all relevant to the claims as well as to the disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450

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Alexandria, Virginia 22313-1450

Or faxed to:

(571) 273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak
Primary Examiner
Art Unit 2622

VRK